

## **Rye City Planning Commission Minutes**

November 18, 2003

**PRESENT:**

Barbara Cummings, Chair  
Martha Monserrate, Vice-Chair  
Franklin Chu (partial)  
Hugh Greechan  
Peter Larr  
Patrick McGunagle

**ABSENT:**

None

**ALSO PRESENT:**

Christian K. Miller, AICP, City Planner

**I. HEARINGS**

**None**

**II. ITEMS PENDING ACTION**

**1. Election of Planning Commission Vice-Chair**

At the November 12, 2003 Rye City Council meeting the Mayor designated Barbara Cummings as Chairman of the Planning Commission to fill the position recently vacated by former Chairman Michael Klemens. As provided for under the Commission's by-laws Ms. Cummings nominated Martha Monserrate as Vice-Chair.

On a motion made by Peter Larr, seconded by Patrick McGunagle and carried by the following vote:

AYES: Barbara Cummings, Hugh Greechan, Peter Larr, Patrick McGunagle

NAYS: None

ABSTAIN: Martha Monserrate

ABSENT: Franklin Chu

the Planning Commission took the following action:

**ACTION:** The Planning Commission elected Martha Monserrate as Vice-Chair.

Chair Cummings also requested that the Commission's December 9, 2003 agenda include a discussion of proactive planning projects the Commission could undertake for the upcoming year.

## **Rye City Planning Commission Minutes (Cont.)**

November 18, 2003

Page 2 of 10

### **2. 30 High Street**

The Commission reviewed the revised site plan/subdivision plat. The Commission discussed the adequacy of the proposed number of parking spaces. The City Planner advised that four parking spaces were proposed for each two-family unit, exceeding the minimum requirements of the Rye City Zoning Code. The Commission agreed that two parking spaces for each residential unit was acceptable.

The Commission requested that the driveway easement be amended to grant the City of Rye the right to use the driveway to gain access to the City sewer line on the property. The Commission further requested that all easements and property restrictions be reviewed by corporation counsel for their adequacy prior to final subdivision and site plan approval.

On a motion made by Peter Larr, seconded by Martha Monserrate and carried by the following vote:

AYES: Barbara Cummings, Hugh Greechan, Peter Larr, Patrick McGunagle,  
Martha Monserrate

NAYS: None

RECUSED: None

ABSENT: Franklin Chu

the Planning Commission took the following action:

ACTION: The Planning Commission adopted a resolution of conditional approval for preliminary subdivision, site plan and use permitted subject to additional standards and requirements application number SUB281 and SP275.

### **3. Beechwind**

The Planning Commission discussed the environmental issues associated with the project site. The Commission noted a Phase I and II was prepared for 668 Milton Road, but that only a Phase I was provided for 670 Milton Road and this report did not include a "conclusions" section. The Commission requested the applicant provide a complete Phase I, including a conclusions section consistent with ASTM 1527 site assessment protocol. The Commission noted the Phase I for 670 Milton Road includes information and findings suggesting that a Phase II for this property may be required.

The Commission conducted a detailed review of the environmental assessments. The Commission stated the Phase I for 670 Milton Road notes the use of large quantities of degreaser on the site and that there may be a need for further soil and groundwater investigations. The underground storage tank on the site should be located and a detailed asbestos survey should be provided to address the presence of this material in floor tiles and installation. The Commission added that based on the Phase I report the

## **Rye City Planning Commission Minutes (Cont.)**

November 18, 2003

Page 3 of 10

1 applicant should conduct further investigation of the transformer area since it was likely  
2 to have contained PCBs at some time in the past. The Commission noted a Phase II for  
3 the 670 Milton Road would propose remediation measures to address these  
4 environmental concerns that could impact the design of the project and the approval by  
5 the NYSDEC.

6  
7 The Commission discussed the Phase I and II for 668 Milton Road property, noting  
8 these reports require a complete inspection of asbestos consistent with Department of  
9 Labor requirements to protect construction workers, particularly during demolition. The  
10 Commission reviewed the soil boring results for the property, noting potentially  
11 unacceptable levels of mercury, arsenic, chromium and cadmium. The Commission  
12 requested that the acceptability of these levels should be confirmed with Westchester  
13 County Department of Health and NYSDEC. The clean up levels proposed by the  
14 applicant appear to significantly exceed NYSDEC guidelines for a proposed residential  
15 use. The report also cites the presence of petroleum hydrocarbons.

16  
17 The Commission discussed the presence of these materials, the need for additional  
18 borings to determine their extent, the impact of these materials on construction and  
19 worker exposure and possible remediation measures. The Commission stressed the  
20 need for additional information, but suggested that given the presence of bedrock  
21 approximately eight feet below grade and an impermeable clay layer five feet below  
22 grade that complete removal of all soil on the property may be a reasonable and more  
23 preferably remediation program than the partial removal and the addition of a soil cap.

24  
25 Rex Gedney (applicant's architect) responded that regardless of the remediation  
26 solution some fill would be required to get property driveway and pedestrian access to  
27 the buildings. He added that all construction would be above grade and that there  
28 would be no basements. The Commission acknowledged the site's location within a  
29 designated flood zone potentially restricting the amount of fill that can be used under the  
30 City's Floodplain Management Law.

31  
32 The Commission discussed the demolition of buildings and the asbestos removal  
33 requirements. The Commission requested a full survey be provided for its review.

34  
35 The Commission noted no experience with a soil cap being used as an acceptable  
36 remediation solution for residential property. The Commission further questioned the  
37 findings of the Phase I and II reports, the acceptability of the levels it cites the  
38 responsibility of County or State agencies to review the documents and suggested  
39 remediation measures. The Commission agreed that referral to these agencies for their  
40 comment may be required, as well as additional guidance from Corporation Counsel or  
41 consultant. The Commission requested the applicant communicate with appropriate  
42 County and State agencies responsible for the review and approval of site remediation  
43 issues.

## **Rye City Planning Commission Minutes (Cont.)**

November 18, 2003

Page 4 of 10

1 The Commission discussed the potential for contamination concerns within Milton  
2 Harbor associated with the project site, which could impact the City's willing to accept  
3 the applicant's offer to give some of the boat slips on the property to the City Boat  
4 Basin. Commission members Larr and Chu provided an overview of their informal  
5 discussions with the Boat Basin Commission. The Boat Basin Commission stated this  
6 as a principal concern based on recent experiences with the cost of dredging  
7 contaminated soil. The use of the Shongut property suggested that such contaminants  
8 may exist and that dredging may be necessary. The Boat Basin Commission was  
9 conceptually receptive to accepting the slips and public access, provided that additional  
10 testing was conducted to confirm that there were no contaminants. The Boat Basin  
11 Commission acknowledged that this testing could take months to complete. The

12  
13 Commission requested the applicant conduct this additional testing, which would help  
14 the City assess whether the boat slips should be accepted and to determine whether  
15 there are contaminants in the water that may impact the City's Boat Basin property or  
16 future dredging activities.

17  
18 The Planning Commission discussed with the City Planner the SEQRA process for the  
19 application. The City Planner noted that the Commission did not consent to a  
20 coordinated review by the City Zoning Board of Appeals and that it would make its own  
21 determination of significance. The City Planner advised that the Commission was in the  
22 early stages of the review and gathering information to assist it in making a  
23 determination of significance.

24  
25 The Planning Commission reviewed each page of Part 2 of the Full Environmental  
26 Assessment Form (EAF) prepared by the City Planner for the Commission's  
27 consideration. In its review the Commission noted areas where the project impact may  
28 be potentially large or required further examination including on-site contamination,  
29 contamination and impacts on future dredging in Milton Harbor, water quality impacts  
30 associated with sub-surface tanks, air quality impact associated with asbestos removal,  
31 future pesticide and fertilizer use, impacts of the project on views of Milton Harbor,  
32 historic or cultural impacts on the historic Milltown area, loss of water-dependent  
33 recreational use, public health impacts during construction associated with site  
34 contaminants.

35  
36 The Commission discussed with the City Planner concerns with the long-term viability of  
37 the proposed boat docks available to the public. The Commission questioned the  
38 effectiveness mechanisms that will be provided by the applicant and suggested that City  
39 ownership of the slips might provide better long-term protection.

40  
41 The Commission reviewed the comments of the CC/AC relating to its review of the  
42 proposed wetland permit and activities within 100 feet of Milton Harbor. The  
43 Commission requested the City Engineer review the proposed stormwater drainage  
44 plans and proposed seawall reconstruction. The Commission noted that Army Corps  
45 and NYSDEC permits would likely be required to reconstruct the wall. The Commission

## **Rye City Planning Commission Minutes (Cont.)**

November 18, 2003

Page 5 of 10

1 requested the plans be revised to provide the calculation of changes in impervious area  
2 on the site.

3  
4 The Commission discussed the proposed modifications to the Gedney Store, noting the  
5 applicant proposed a restoration in a Victorian style. The Commission noted this was  
6 not consistent with the historic look of this building and that if it was not going to be  
7 restored as it existed, it might not be worth preserving and giving the applicant the  
8 requested FAR variance. Rex Gedney (applicant's architect) noted the design of the  
9 building was intended to match the architecture of the proposed residences.

10  
11 The Commission reviewed the height of the proposed buildings to comply with the City's  
12 Floodplain Management Law and whether the proposed residences were out of  
13 character with the neighborhood. The City Planner advised the Commission as to the  
14 applicable zoning district standards for the property.

15  
16 The Commission discussed the flood zone restrictions on the property and the impacts  
17 of the proposed fill on tidal flooding events.

18  
19 The Commission discussed the licenses associated with the underwater lands/docks.  
20 The Commission questioned when these licenses expire and the impact that could have  
21 on the use of the docks. The Commission requested that the licenses be referred to  
22 Corporation Counsel. The Commission also requested more information on the  
23 proposed docks, their depth and types and size of boats that could be served.

24  
25 The Commission noted the location of walls within the wetland buffer, along side and  
26 front property lines and within the view corridor. Mr. Pirro responded that none are  
27 located within the view corridor.

28  
29 The Commission discussed the wetland mitigation strategy noting that 2:1 wetland  
30 plantings may not be practical in this instance given the size of the property. The  
31 Commission viewed the combined benefits of the environmental cleanup, additional  
32 plant material and stormwater management measures as the mitigation solution for the  
33 project. Craig Stauder (applicant's landscape architect) provided an overview of the  
34 landscape plan and plant material.

35  
36 Mr. Pirro responded to the Commission's review. He requested that the Commission  
37 declare its intent to be Lead Agency and circulate the appropriate application materials  
38 to involved agencies including NYSDEC, Westchester County Department of Health and  
39 other agencies with jurisdiction.

40  
41 Mr. Pirro stated he would provide the Commission with the requested Phase I and II  
42 environmental reports and that additional studies were being prepared for the property  
43 and would be forwarded to the Commission. Mr. Pirro suggested that input from  
44 NYSDEC would be helpful and that he supports a complete environmental review by the

## **Rye City Planning Commission Minutes (Cont.)**

November 18, 2003

Page 6 of 10

1 Commission of the application, including, if necessary, the preparation of an  
2 environmental impact statement.

3  
4 Mr. Pirro stated he would provide the Commission with a copy of the bylaws and that he  
5 was open to adjustments in the language to address the Commission's concerns.

6  
7 Mr. Pirro indicated he was examining the depth of water in the Harbor based on  
8 information from the City Boat Basin. He stated there was no intention to disturb soil in  
9 the Harbor to reconstruct the docks, since no new pylons would be installed.

10  
11 Mr. Gedney provided an overview of the site plan. Mr. Stauder noted the revised  
12 location of the residence on Lot 2 closer to the water to enhance the streetscape. The  
13 shifting of the building also allowed for no obstructions within the 40-foot view corridor.

14  
15 The Commission discussed the architectural treatment for the Gedney store, noting the  
16 most historically accurate treatment for the building would be a restoration with a  
17 shingle façade and the removal of existing brick. The Commission acknowledged that  
18 the porch could not be added since it encroaches within the right-of-way. Mr. Gedney  
19 stated that the BAR found the Gedney store treatment acceptable but suggested  
20 additional changes in the design of the proposed residences. It was Mr. Gedney's  
21 opinion that period photographs indicate that the store was very utilitarian and that may  
22 not work well (from a marketing perspective) with the proposed residences. The  
23 Commission debated the benefit of a restoration of the Gedney store that was not  
24 consistent with its historic character. If a historic restoration could not occur the  
25 Commission discussed removing the building to provide a greater opportunity for public  
26 view of the water.

27  
28 The Commission declared its intent to be Lead Agency.

### **4. Rye Subaru**

29  
30  
31  
32 Anthony Gioffre (applicant's attorney) provided an overview of the application noting  
33 that it involved the demolition of an existing building and construction of a new 5,000  
34 square-foot vehicle dealership. Mr. Gioffre noted that new drainage, lighting and  
35 landscaping would be provided and that the project would be a significant aesthetic  
36 enhancement over the existing condition of the property. Mr. Gioffre stated that 50  
37 parking spaces are provided consistent with the requirements on the Rye City Zoning  
38 Code. Of these 50 spaces, 16 would be provided for visitors and employees and the  
39 remaining 29 would be set aside for service (including 5 spaces within the service bays  
40 inside the building).

41  
42 Rex Gedney (applicant's architect) noted that as requested by the Commission, the  
43 applicant has explored the possibility of re-establishing the previous access way that  
44 extend from Boston Post Road to the Metro-North property located along the applicant's  
45 northern property line. Mr. Gedney stated that the alignment of the access way would

## **Rye City Planning Commission Minutes (Cont.)**

November 18, 2003

Page 7 of 10

1 require permission from the adjacent property owner, Metro-North. Mr. Gioffre added  
2 that based on consultations with City official there are some concerns with the liability of  
3 reestablishing the walkway and maintenance costs such as snow removal.

4  
5 Mr. Gedney discussed the provisions to unload vehicles, acknowledging the  
6 Commission's previously stated concern regarding the impact of loading vehicles on  
7 traffic flow on Boston Post Road. Mr. Gedney noted that the applicant, consistent with  
8 current practice, would unload vehicles in the Metro-North parking lot. A second option  
9 would be to unload vehicles at off-site lots, which the applicant has access to in Port  
10 Chester, Stamford or New Rochelle and then have the vehicles driven to the Rye  
11 property.

12  
13 The Commission questioned what would happen to the existing Subaru dealership  
14 located around the corner on McCullough Place. Mr. Gioffre stated that that building  
15 would continue to be used as a back-office for the adjacent Ford dealership as it is  
16 today. Mr. Gioffre noted that Subaru requires a separate showroom building for its  
17 vehicles. The current building satisfies that requirement by having a Subaru vehicle, but  
18 that most of the current operations are related to the Ford dealership.

19  
20 The Commission discussed the existing encroachment of asphalt onto the adjacent  
21 property owned by the City of Rye. The Commission stated that the applicant would  
22 need to discontinue using this area or seek a license agreement, including appropriate  
23 compensation, from the City Council. Mr. Gedney noted that the site plan proposes to  
24 maintain that area in its current condition and configuration and that no changes are  
25 proposed.

26  
27 The Commission questioned the status of the prior environmental cleanup on the  
28 property. Mr. Gedney stated that the clean up has been completed and signed-off on  
29 by New York State Department of Environmental Conservation. The source of the prior  
30 contamination was difficult to determine, but was probably related to pollutants being  
31 discharged into a drainage system that traveled from the applicant's property to the  
32 adjacent Metro-North property.

33  
34 The Commission discussed the proposed lighting plan and requested that additional  
35 information be provided. The Commission requested that the type and intensity of  
36 lighting for the site should be similar to that provided at the credit union property located  
37 at the intersection of Midland and Peck Avenue. Mr. Gedney stated that 400-watt bulbs  
38 located on 17-foot fixtures would be provided for the site and that a lighting plan would  
39 be provided for the Commission's review. Mr. Gioffre stated that the homeless are  
40 starting to frequent the applicant's property at night and that a reasonable lighting level  
41 will be necessary to deter this activity.

42  
43 The Commission discussed the proposed drainage system. Mr. Gedney stated that the  
44 drainage plan was prepared with the input of the City Engineer and involves placing a

## **Rye City Planning Commission Minutes (Cont.)**

November 18, 2003

Page 8 of 10

42" pipe under the parking and landscape area to provide some detention capacity, with an overflow for larger storm event to the existing drainage system.

Pam Lester (applicant's landscape architect) provided an overview of the proposed landscape plan noting that the objective was to provide plant material that would provide some seasonal interest and was hardy enough to withstand the impact of an urban environment such as salt from snow plows on Boston Post Road. Ms. Lester noted that the plant material was limited to shrubs and ground cover since trees would interfere with the sub-surface drainage system.

On a motion made by Patrick McGunagle, seconded by Franklin Chu and carried by the following vote:

AYES: Barbara Cummings, Franklin Chu, Hugh Greechan, Peter Larr, Patrick McGunagle, Martha Monserrate

NAYS: None

RECUSED: None

ABSENT: None

the Planning Commission took the following action:

ACTION: The Planning Commission set a public hearing on site plan application number SP276 for its next meeting on December 9, 2003.

### **5. Gingrich Residence**

Pam Lester provided an overview of the application noting that it involved a request for wetland permit approval to construct a two-car garage and rear building an addition to an existing residence located within the 100-foot buffer of Blind Brook. A portion of the existing driveway pavement would be removed to mitigate some of the proposed increase in impervious area. In addition, Ms. Lester stated that landscape mitigation plantings would be provided. The Commission requested that the 318 square-feet of mitigation area relocated so that it is adjacent to the Brook rather than adjacent to the residence.

Jim McGee (CC/AC member) stated that the CC/AC found the application acceptable and that it did not represent a significant increase in impervious area. Mr. McGee stated that measures should be provided to address stormwater. Ms. Lester responded that the plan includes sub-surface detention.

The Commission suggested that the design of the residence raise the first floor elevation as much as possible due to prevalence of flooding in the area. The City Planner agreed, but noted that based on information provided by the applicant's



## **Rye City Planning Commission Minutes (Cont.)**

November 18, 2003

Page 9 of 10

1 architect regarding the value of the existing structure and improvement that it was not  
2 required to comply with the requirements of the City's Floodplain Management Law.

3  
4 Darcy Gibson (applicant's architect) discussed the design of the residence and the  
5 applicant's need to have a home office located on the first floor.

6  
7 On a motion made by Patrick McGunagle, seconded by Peter Larr and carried by the  
8 following vote:

9  
10 AYES: Barbara Cummings, Franklin Chu, Hugh Greechan, Peter Larr, Patrick  
11 McGunagle, Martha Monserrate

12 NAYS: None

13 RECUSED: None

14 ABSENT: None

15  
16 the Planning Commission took the following action:

17  
18 ACTION: The Planning Commission set a public hearing on wetland permit  
19 application number WP144 for its next meeting on December 9, 2003.

### **6. Rockridge Christmas Tree Sales**

20  
21  
22  
23  
24 On a motion made by Peter Larr, seconded by Patrick McGunagle and carried by the  
25 following vote:

26  
27 AYES: Barbara Cummings, Franklin Chu, Hugh Greechan, Peter Larr, Patrick  
28 McGunagle, Martha Monserrate

29 NAYS: None

30 RECUSED: None

31 ABSENT: None

32  
33 the Planning Commission took the following action:

34  
35 ACTION: The Planning Commission adopted a resolution granting temporary use  
36 permit for the sale of Christmas trees for a property located at 280  
37 Purchase Street.

### **7. Tanney**

38  
39  
40  
41 The City Planner noted that the applicant obtained a building permit, started  
42 construction, but that the project is not "substantially completed" as required by the  
43 expiration provision in the original resolution of approval. The City Planner  
44 recommended that the Commission approve the resolution granting a one-year  
45 extension of time.

## **Rye City Planning Commission Minutes (Cont.)**

November 18, 2003

Page 10 of 10

1

2 On a motion made by Peter Larr, seconded by Patrick McGunagle and carried by the  
3 following vote:

4

5 AYES: Barbara Cummings, Franklin Chu, Hugh Greechan, Peter Larr, Patrick  
6 McGunagle, Martha Monserrate

7 NAYS: None

8 RECUSED: None

9 ABSENT: None

10

11 the Planning Commission took the following action:

12

13 ACTION: The Planning Commission adopted a resolution granting a one-year  
14 extension of time to site plan application number SP258.

15